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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,880	12/03/2004	Klaus Ingemann Pedersen	60282.00225	1705

32294 7590 07/20/2007
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EXAMINER

NGUYEN, SIMON

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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07/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/516,880

Applicant(s)

PEDERSEN ET AL.

Examiner

SIMON D. NGUYEN

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,6-10,12,13 and 16-22 is/are allowed.
- 6) ☒ Claim(s) 1, 4-5, 11, 14-15, 23-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-5, 14-15, 24-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4, 14, and 34, the equation used to calculating the spreading factor is incomplete since it did not explain all letters involved in the equation, for example, what is Q ?, meSC ?

Regarding claim 5, 15, 24-33, 35, these claims are rejected as being dependent upon independent claims that have been rejected.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2618

4. Claims 1, 11, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Magnusson (US 2003/0099282).

Regarding claims 1, 11, and 23, Magnusson discloses a method for providing Spreading Factor or resource in a CDMA system (abstract), the method comprising: using the spreading factor of the root channelization code to set an upper limit on the maximum bit rate (maximizing high data rate) ((abstract, paragraphs 15, 16, 18-20, 51-54); selecting the spreading factor according to the set of minimum spreading factors (high data rate code with low spreading factor)(figs. 8-10, paragraphs 24, 32, 53-55, 59, 73-77, 87-92) for different beams or antennas (fig.4, paragraphs 50, 68).

Allowable Subject Matter

5. Claims 2-3, 6-10, 12-13, 16-22 are allowed.
6. The following is an examiner's statement of reasons for allowance:

Regarding claims 3, 13, 21, the prior art of record fails to teach or suggest an equation used in selecting a minimum spreading factor according to a set of minimum spreading factor for separately antenna beam number as claimed.

Regarding claims 2, 6-10, 12, 16-20, 22, these claims are allowed as being dependent upon independent claims that have been allowed.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 11, 23 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2618

The new art issued to Magnusson discloses a method for selecting the spreading factor according to the set of minimum spreading factors as shown in figs. 8-10, wherein the selection is performed by the base station controller of the base station 28 based on data rate level and the selected channels of the spreading factors are applied to different antennas 39 (fig.4).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

600 Dulany, Alexandria, VA 22314

Or faxed to:


(571) 273-8300 (for formal communications intended for entry)

Hand-delivered response should be brought to Customer Service Window located at the Randolph Building, 401 Dulany, Alexandria, VA, 22314.

Art Unit: 2618

Simon Nguyen

July 9, 2007



SIMON NGUYEN
PRIMARY EXAMINER